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PATENT & TRADEMARK OFFICE

PATENT
Docket No. 290.00100101

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Kinch et al.	)	Group Art Unit: 1642
Serial No.: 09/640,935	)	Examiner: Misook YU
Confirmation No.: 3254	)	
Filed: 17 August 2000	)	

For: EPHA2 AS A THERAPEUTIC TARGET FOR METASTATIC CANCER

INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In compliance with the duty imposed by 37 C.F.R. § 1.56, and in accordance with C.F.R. §§ 1.97 *et. seq.*, the materials enclosed herewith are brought to the attention of the Examiner as possibly being of interest in connection with the above-identified patent application. Per M.P.E.P. § 609, the information cited in the present Information Disclosure Statement shall not be construed to be an admission that the information is, or is considered to be, material to patentability. Consideration of each of the documents listed on the attached 1449 form(s) is respectfully requested. Copies of the U.S. patents and U.S. patent application publications listed on the attached 1449 forms have not been submitted. Pursuant to the provisions of M.P.E.P. §609, Applicants further request that a copy of the 1449 form(s), marked as being considered and initialed by the Examiner, be returned with the next Official Communication.

Sale of Antibody D7

According to information provided to Applicants' Representatives by the Assignee, the first sale of antibody D7 by the licensee under Document A, described below, occurred on or about October 15, 1998, and antibody D7 was not advertised for sale by the licensee until sometime after August 21, 1998.

08/02/2004 CNGUYEN 00000048 134895 09640935
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List of License Agreements, Material Transfer Agreements, and Transfers of Biological Material Pursuant Thereto

Listed below are license agreements and material transfer agreements that were entered into prior to the filing date of priority application 60/149,258 (August 17, 1999) associated with the instant U.S. nonprovisional application. It should be understood that Document A was executed, and provision of materials to the licensee occurred pursuant thereto, prior to August 17, 1998. The agreements have been redacted to delete identifying information.

Document A: License agreement pertaining to "Anti-Eck monoclonal antibody" which is the D7 antibody; this agreement was executed prior to August 17, 1998. According to information provided to Applicants' Representatives by a named inventor, a crude preparation containing D7 antibody was provided to the licensee prior to August 17, 1998.

Document B: Material transfer agreement pertaining to B2D6 antibodies; this agreement was executed after August 17, 1998, but prior to August 17, 1999. Biological materials may have been provided to the other party for research purposes after August 17, 1998, but prior to August 17, 1999.

Document C: License agreement pertaining to B2D6 hybridoma; this agreement was executed after August 17, 1998, but prior to August 17, 1999. Biological materials may have been provided to the licensee after August 17, 1998, but prior to August 17, 1999.

Document D: License agreement pertaining to B2D6 antibodies; this agreement was executed after August 17, 1998, but prior to August 17, 1999. Biological materials may have been provided to the licensee after August 17 1998, but prior to August 17, 1999.

Applicants submit that the license agreements do not constitute sales or offers for sale of the claimed subject matter under 35 U.S.C. 102(b). See, for example, *In re John Kollar*, decided

by the U.S. Court of Appeals for the Federal Circuit on April 11, 2002, Number 01-1640, copy enclosed.

Statement Concerning 35 U.S.C. §102(f) and §102(g)

The present application names joint inventors. To assist the Examiner in evaluating the application under 35 U.S.C. 102(f) and 102(g), and in accordance with their obligations under 37 C.F.R. 1.56, Applicants point out that the subject matter of pending claims 58-103 (drawn to a method of cancer treatment) was invented later than the subject matter of canceled claims 16-19 (drawn to a method of making antibodies) and canceled claims 42-45 (drawn to hybridomas, antibodies, and isolated hybridomas and antibodies). Further, the inventions of claims 16-19, 42-45 and 58-103 were not commonly owned at the time the later invention (claims 58-103) was made. Specifically, at the time the later invention was made, the invention of claims 58-103 (inventors Kinch, Zantek and Hein) was owned solely by Purdue Research Foundation; the invention of claims 16-19, 42 and 44 (inventors Kinch and Kilpatrick) was co-owned by University of North Carolina and GlaxoSmithKline, and the invention of claims 43 and 45 (inventors Kinch, Zantek, Hein and Kilpatrick) was owned by GlaxoSmithKline and Purdue Research Foundation.

The Examiner is further requested to note that, in the Restriction Requirement mailed May 6, 2002, these claim sets were classified as different inventions as follows: Group II–claims 58-103 (replacing canceled claims 6-13, 46-54 and 56); Group V–claims 16-18; Group VI–claim 19; and Group I–claims 42-45.

Copending Applications

Applicants also wish to bring the Examiner's attention to the following pending U.S. Applications, as well as any documents, Office Actions that may include rejections of similar claims, and any provisional U.S. patent applications referenced in the pending U.S. applications or in their file wrappers. A copy of each of the below-listed pending U.S. Patent Applications is provided herewith.

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List of Pending Non-Published U.S. Patent Applications

Applicant(s)	Application Number	Filing Date	Serial No. of Provisional Application to which listed Application claims priority
Kilpatrick et al.	09/952,560	11 Sept. 2001	60/232,302

Since this Information Disclosure Statement is submitted after the receipt of an Office Action in the above-identified patent application, please charge the fee of $180 under 37 C.F.R. §§1.97(c) and 1.17(p) and any additional fees to Deposit Account No. 13-4895. Applicants.

The Examiner is invited to contact Applicants' Representatives at the below-listed telephone number, if they can be of any assistance during prosecution of the present application.

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27 day of July, 2004.

VICTORIA A SANDBERG

July 27, 2004
Date

Respectfully submitted for
Purdue Research Foundation

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INFORMATION DISCLOSURE STATEMENT	**Atty. Docket No.:** 290.00100101	**Serial No.:** 09/640,935
	Applicant(s): Kinch et al.	**Confirmation No.:** 3254
	Application Filing Date: 17 August 2000	**Group:** 1642
	Information Disclosure Statement mailed: 27 July 2004	

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U.S. PATENT DOCUMENTS

Examiner Initial		Document Number	Date	Name	Class	Subclass	Filing Date If Appropriate
		5,981,245	11/09/99	Fox et al.			
		US 2004/0028685	02/12/04	Kinch et al.			
		US 2004/0091486	05/13/04	Kinch et al.			

FOREIGN PATENT DOCUMENTS

Examiner Initial		Document Number	Date	Country	Class	Subclass	Translation	
							Yes	No
		WO 94/04679	03/03/94	PCT				
		WO 94/11020	05/26/04	PCT				
		WO 95/15375	06/08/95	PCT				
		WO 00/37500	06/29/00	PCT				
		WO 01/47892	07/05/01	PCT				
		WO 03/099313 A1	12/04/03	PCT				
		WO 2004/014292 A2	02/19/04	PCT				

OTHER DOCUMENTS (Including Authors, Title, Date, Pertinent Papers, etc.)

Examiner Initial		Document Description
		Becker et al. "Characterization of the SEK-1 receptor tyrosine kinase" *FEBS Letters* 1995;*368*(2):353-357.
		Chen et al. Abstract. "An enhancer element in the EphA2 (Eck) gene sufficient for rhombomere-specific expression is activated by HOXA1 and HOXB1 homeobox proteins." *J Biol Chem.* 1998;*273*(38):24670-5.
		Easty et al. "Loss of Expression of Receptor Tyrosine Kinase Family Genes PTKT and SEK in Metastatic Melanoma" *Int. J. Cancer* 1997;*71*:1061-1065.
		Fox et al. "cDNA cloning and tissue distribution of five human Eph-like receptor protein tyrosine kinases" *Oncogene* 1995;*10*(5):897-905.

EXAMINER	**Date Considered**

***Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.**

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		Kerr et al., ed. *LabFax Immunochemistry* 1994;115, 157, 191-197.
		Larrick et al. (In: Human Hybridomas and Monoclonal Antibodies, Engleman and Foung, Eds. 1985, 8-9).
		Martone et al. "Immunolocalization of the receptor tyrosine kinase EphA4 in the adult rat central nervous system" *Brain Res.* 1997;*771*(2):238-250.
		McBride et al. "Ephrin-A1 is expressed at sites of vascular development in the mouse," *Mech. Dev.* 1998;*77*(2):201-204. Abstract only.
		Muhlbauer et al. Abstract. "Detection of melanoma cells in the blood of melanoma patients by melanoma-inhibitory activity (MIA) reverse transcription-PCR" *Clinical Cancer Research* 1999;*5*(5):1099-1105.
		Ohta et al. "The receptor tyrosine kinase, Cek8, is transiently expressed on subtypes of motoneurons in the spinal cord during development' *Mechanisms Devel.* 1996;*54*(1):59-69.
		Scully et al. "Isolation and characterization of Desk, a Drosophila eph receptor protein tyrosine kinase," *Mol. Cell. Neuro.* 1999;*13*(5):337-347
		Wada et al. "Glycosylphosphatidylinositol-anchored cell surface proteins regulate position-specific cell affinity in the limb bud" *Devel. Biol.* 1998;*202*(2):244-252

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